

**COURT OF APPEALS
DECISION
DATED AND FILED**

December 27, 2017

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2016AP1122

Cir. Ct. No. 2012FA5081

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

IN RE THE FINDING OF CONTEMPT IN:

STEPHANIE M. PRZYTARSKI , P/K/A STEPHANIE M. KRAMSCHUSTER,

PETITIONER-APPELLANT,

GARY KRAMSCHUSTER AND SANDRA KRAMSCHUSTER,

APPELLANTS,

V.

TED B. VALLEJOS,

RESPONDENT-RESPONDENT.

APPEAL from an order of the circuit court for Milwaukee County:
PAUL R. VAN GRUNSVEN, Judge. *Affirmed.*

¶1 KESSLER, J.¹ Gary and Sandra Kramschuster (the Kramschusters), *pro se*, appeal an order of the circuit court denying their motion to find Ted Vallejos in contempt. We affirm the circuit court.

BACKGROUND

¶2 At issue in this appeal is whether the circuit court erred in denying a contempt motion filed by Sandra and Gary Kramschuster. These parties have been before this court multiple times and this case has a complicated procedural history.

¶3 As relevant to this appeal, the basic facts are as follows. This case originated in Waukesha County Circuit Court with the initiation of a paternity action by the State of Wisconsin. The court appointed Laura Schwefel as the guardian ad litem of the child at issue. Venue was subsequently changed, and the matter was moved to Milwaukee County. Schwefel was again appointed as the guardian ad litem. A circuit court order divided the guardian ad litem fees as follows: 25% owed by the maternal grandparents, the Kramschusters, 35% owed by the child's father, Vallejos, and 40% owed by the child's mother, Przytarski.

¶4 On September 9, 2015, Schwefel filed a motion for contempt against Przytarski for failure to pay outstanding guardian ad litem fees in Milwaukee County. On October 12, 2015, Schwefel filed a motion for contempt against the Kramschusters for failure to pay outstanding court-ordered guardian ad litem fees in Milwaukee County. These two motions remain outstanding in the circuit court pending resolution of this appeal.

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

¶5 In response to Schwefel’s contempt motions, Przytarski and the Kramschusters, *pro se*, filed their own motion for contempt against Vallejos, asking the circuit court to find Vallejos in contempt for failing to pay a \$750 deposit towards Schwefel’s fees. The circuit court held a hearing on the motion. On the day of the hearing, Przytarski and the Kramschusters filed two additional motions—a motion for sanctions against Schwefel, and a motion to disqualify Schwefel as the guardian ad litem. At the hearing, Schwefel told the circuit court that Vallejos was regularly paying down his guardian ad litem fees and as of the date of the hearing, had paid well in excess of \$750. Schwefel told the court that Przytarski’s and the Kramschusters’ motion against Vallejos was without a factual or legal basis. The circuit court denied Przytarski’s and the Kramschusters’ motion against Vallejos and refused to hear their motions against Schwefel, as they were filed on the day of the hearing. The court issued a written order on March 7, 2016. Przytarski and the Kramschusters appeal from that order.

DISCUSSION

¶6 On appeal, Przytarski and the Kramschusters argue that the circuit court erroneously denied their contempt motion against Vallejos because the court “did not follow the proper procedure for an evidentiary hearing whereby the petitioner prosecutes his or her case by calling witnesses and submitting evidence.” In essence, they argue that the circuit court had no proof that Vallejos paid any guardian ad litem fees when it dismissed the contempt motion.

¶7 When a circuit court uses its contempt power, it exercises judicial discretion. *Krieman v. Goldberg*, 214 Wis. 2d 163, 169, 571 N.W.2d 425 (Ct. App. 1997). “A circuit court acts within its discretion when it examines the relevant facts, applies a proper standard of law, and, using a demonstrated rational process, reaches a conclusion that a reasonable judge could reach.” *Bank Mut. v.*

S.J. Boyer Constr., Inc., 2010 WI 74, ¶20, 326 Wis. 2d 521, 785 N.W.2d 462. If the circuit court has done so, we will affirm the decision. See *Benn v. Benn*, 230 Wis. 2d 301, 308, 602 N.W.2d 65 (Ct. App. 1999). We uphold the circuit court's factual findings unless they are clearly erroneous. See *Phelps v. Physicians Ins. Co. of Wis., Inc.*, 2009 WI 74, ¶34, 319 Wis. 2d 1, 768 N.W.2d 615.

¶8 Przytarski and the Kramschusters ignore the fact that Schwefel presented the circuit court with billing statements showing that Vallejos had been complying with his court-ordered guardian ad litem payments. Moreover, Schwefel testified that Vallejos was in compliance with his payment schedule. The circuit court is the ultimate arbiter of the credibility of the witnesses and the weight to be given to each witness's testimony. *Bank of Sun Prairie v. Opstein*, 86 Wis. 2d 669, 676, 273 N.W.2d 279 (1979). Based on the billing statements and Schwefel's testimony, the court found no basis for Przytarski's and the Kramschusters' contempt motion. The court's findings were not clearly erroneous.²

By the Court.—Order affirmed.

This opinion will not be published. WIS. STAT. RULE 809.23(1)(b)4.

² To the extent the appellants raise arguments concerning their two motions against Schwefel, we agree with the circuit court that the motions were not properly filed. Moreover, the appellants do not properly raise any arguments as to these motions in their brief. An issue which has not been briefed or argued on appeal is deemed abandoned. *Reiman Associates v. R/A Advertising*, 102 Wis. 2d 305, 306 n.1, 306 N.W.2d 292 (Ct. App. 1981).

The appellants conclude their brief by asking this court to: (1) grant their contempt motion; (2) reverse motions filed in November 2014 and June 2015; and (3) grant alternate placement of the child at issue to Vallejos upon agreement of the parties, all pursuant to WIS. STAT. § 752.35. Only the contempt motion is before this court on appeal. We decline to address the appellants' other requests, which we find to be without legal or factual support in the record before us. We caution appellants against raising issues which are neither legally nor factually supported by the record.

